

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Leilani Rhodes	Team: Squad #9	CCRB Case #: 201901084	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 02/05/2019 11:55 AM	Location of Incident: 235 East 20th Street	Precinct: 13	18 Mo. SOL 8/5/2020	EO SOL 3/22/2021	
Date/Time CV Reported Tue, 02/05/2019 11:52 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 02/05/2019 4:38 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Nicholas Valentin	07750	961575	009 PCT
2. POF Meglis Grullon	28159	936042	009 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. LT Latonya Williams	00000	931425	013 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Nicholas Valentin	Discourtesy: Police Officer Nicholas Valentin spoke discourteously to § 87(2)(b)	
B.POM Nicholas Valentin	Off. Language: Police Officer Nicholas Valentin made remarks to § 87(2)(b) based upon the perceived sexual orientation of § 87(2)(b)	
C.POM Nicholas Valentin	Abuse: Police Officer Nicholas Valentin refused to provide his name to § 87(2)(b)	
D.POM Nicholas Valentin	Abuse: Police Officer Nicholas Valentin refused to provide his shield number to § 87(2)(b)	
E.POF Meglis Grullon	Abuse: Police Officer Meglis Grullon threatened to arrest § 87(2)(b)	
F.POM Nicholas Valentin	Abuse: Police Officer Nicholas Valentin threatened to arrest § 87(2)(b)	
G.POF Meglis Grullon	Abuse: Police Officer Meglis Grullon issued a summons to § 87(2)(b)	

Summary

§ 87(2)(b) filed this complaint over the phone with IAB on February 5, 2019. He filed the same complaint via the CCRB's website later the same day.

On February 5, 2019 at approximately 11:55 a.m., § 87(2)(b) was riding a Citi bike eastbound on East 20th Street, approaching 3rd Avenue in Manhattan. After making a right onto East 20th Street, he observed that a police vehicle had moved quickly to the right in order to park without signaling, which caused him to have to move to the left. He approached the driver's side of the vehicle, located in front on 235 East 20th Street in Manhattan and asked PO Nicholas Valentin of the 9th Precinct about what had taken place. As he went to pedal away on the Citi bike, PO Valentin allegedly stated, "Fuck you, faggot." (**Allegation A- Discourtesy, Allegation B- Offensive Language**, § 87(2)(g)). After hearing this statement, § 87(2)(b) stopped his bike, turned around, and requested PO Valentin's name and shield number (**Allegation C, Allegation D- Abuse of Authority**, § 87(2)(g)). PO Valentin then requested § 87(2)(b)'s identification, and § 87(2)(b) refused to provide it. PO Valentin and his partner, PO Meglis Grullon threatened to arrest § 87(2)(b) if he did not provide his identification (**Allegation E, Allegation F- Abuse of Authority**, § 87(2)(g)). PO Grullon issued § 87(2)(b) a summons for disorderly conduct (**Allegation G- Abuse of Authority**, § 87(2)(g)) (Board Review 08).

BWC footage was obtained for this incident and can be found in IAs 40-45. Cell phone video was obtained from § 87(2)(b) and can be found in IAs 28 and 29.

Findings and Recommendations

Allegation (A) Discourtesy: Police Officer Nicholas Valentin spoke discourteously to § 87(2)(b)

Allegation (B) Offensive Language: Police Officer Nicholas Valentin made remarks to § 87(2)(b) based upon the perceived sexual orientation of § 87(2)(b)

It is undisputed that § 87(2)(b) approached PO Valentin's vehicle and informed the officers that the traffic lane was a shared bike lane and that during the conversation, § 87(2)(b) said, "Fuck you" to the officers.

§ 87(2)(b) alleged that PO Valentin replied, "Fuck you faggot" (Board Review 01).

PO Valentin stated that he did not tell § 87(2)(b) "fuck you," he did not call him a "faggot," nor did he use the phrase "Fuck you, faggot" at any point. He stated that he did not use any profanity at all during the incident and never made any comments regarding § 87(2)(b)'s sexual orientation (Board Review 02).

PO Grullon did not recall if PO Valentin used the words "fuck" or "faggot," or if he used the phrase, "fuck you, faggot." She also could not recall if he used any other profanities (Board Review 03).

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation (C) Abuse of Authority: Police Officer Nicholas Valentin refused to provide his name to § 87(2)(b)

Allegation (D) Abuse of Authority: Police Officer Nicholas Valentin refused to provide his shield number to § 87(2)(b)

It is undisputed that § 87(2)(b) requested PO Valentin's name and shield number, and that PO Valentin provided a business card to § 87(2)(b) containing both his name and shield number (Board Review 09).

§ 87(2)(g)

Allegation (E) Abuse of Authority: Police Officer Meglis Grullon threatened to arrest § 87(2)(b)

Allegation (F) Abuse of Authority: Police Officer Nicholas Valentin threatened to arrest § 87(2)(b)

It is undisputed that § 87(2)(b) refused to provide his identification to PO Grullon and PO Valentin after being asked multiple times. It is also undisputed that they explained that they needed his identification in order to issue him a summons and that they informed him that he would be arrested if he did not provide identification.

Patrol Guide Procedure 209-09 instructs officers to obtain a valid identification when issuing a summons and to remove the violator to the command for investigation if doubt concerning identity exists (Board Review 04).

§ 87(2)(g)

§ 87(2)(g)

Allegation (G) Abuse of Authority- Retaliatory Summons: Police Officer Meglis Grullon issued a summons to § 87(2)(b)

It is undisputed that § 87(2)(b) received a summons for disorderly conduct from PO Grullon. On the handwritten summons, PO Grullon noted that § 87(2)(b) said, "Fuck you" to the officer and shouted loud at them (Board Review 08). On the electronic copy of the summons, it was noted that § 87(2)(b) got close to the officers' driver's side window and said, "Fuck you" and that he was screaming, causing public alarm (Board Review 12).

Lieutenant Williams' BWC footage (Board Review 05) captures her conversation with PO Grullon upon arriving on scene. PO Grullon explains to Lieutenant Williams that PO Valentin

was about to pull over when § 87(2)(b) came to their driver's side window, close to the car, and asked them if they knew how to signal and told them that they were in the bike lane. They informed him that there was no bike lane and that they did not hit him. § 87(2)(b) screamed "fuck you" to them. They exited the vehicle and told § 87(2)(b) to provide his identification but he refused to. They then told him that he is giving them no choice but to bring him to the precinct because they were giving him a lawful order to provide his identification and he has to identify who he is. They told him that he was using profanity towards officers and he was not supposed to do that. When they told him that they were going to place him under arrest, that is when he gave them his identification. PO Grullon did not provide any other justifications when Lieutenant Williams asked if there was anything else.

Lieutenant Williams then obtained a statement from § 87(2)(b) § 87(2)(b) explained that after PO Valentin swerved in front of him, he stopped and asked PO Valentin if he realized that he did not signal and ran a red light. PO Valentin said something that § 87(2)(b) felt was dismissive. § 87(2)(b) went to ride away and said, "Fuck you." PO Valentin replied, "Fuck you, you faggot." § 87(2)(b) then pulled over on his bike to ask PO Valentin for his name and shield number. When he stopped, the officers exited their vehicle and told him to give them his identification because they were writing him a summons for disorderly conduct.

Lieutenant Williams then walks back over to speak to PO Grullon to ask her what she was writing § 87(2)(b) the summons for. PO Grullon replied, "Discon- screaming loud and using profanity." Lieutenant Williams asked, "Did he just say f-you?" PO Grullon stated that he said the whole word and came close to the driver's side window. Lieutenant Williams then explained that in order for there to be disorderly conduct, there has to be public alarm and that it cannot just be that someone said, "fuck you" to officers. PO Grullon explained that there was public alarm because § 87(2)(b) was loud and people were stopped. Lieutenant Williams told them that what they were "spelling out" was not really and then paused. She asked them if they feared for their safety. PO Grullon repeated that he was loud and said, "Fuck you." Lieutenant Williams told her that people were allowed to curse at officers. PO Grullon said that she understood but restated that he came close to the driver's side window. Lieutenant Williams explained to her that coming close to the driver's side window would only be a factor if it caused them to fear for their safety. She further explained that if § 87(2)(b) was causing public alarm, they would have to explain that but that cursing was his first amendment right.

The statements made to Lieutenant Williams at the scene, captured on BWC, corroborate the statements made to the CCRB regarding this incident, except where noted below. During her CCRB interview, PO Grullon stated that § 87(2)(b) inserted his head into their vehicle when he approached and later screamed "fuck you" multiple times.

PO Valentin who did not provide a statement to Lieutenant Williams at the scene, stated in his CCRB interview that § 87(2)(b) approached a few inches from the driver's side window and yelled, "Fuck you." § 87(2)(b) placed his hand inside of the vehicle, with his palm holding the window. § 87(2)(b) then continued cursing for approximately 30 seconds at which point PO Valentin instructed him to move back from the window. PO Valentin stated that § 87(2)(b) then turned to leave and PO Valentin said, "Take care bye" as § 87(2)(b) rode away. Soon after, § 87(2)(b) stopped his bike, laughed, and unmounted the bicycle to

approach the officers once again, at which point he asked for PO Valentin's shield number. PO Valentin provided the information to § 87(2)(b) and then asked him for his identification to issue him a summons.

Although PO Grullon stated in her CCRB interview that § 87(2)(b) placed his head in their vehicle and later said, "Fuck you" to them multiple times, her initial statement to Lieutenant Williams regarding this incident corroborates § 87(2)(b)'s statements, which remained consistent. The CCRB therefore credits § 87(2)(b)'s statement and the statements made to Lieutenant Williams' in the BWC footage that § 87(2)(b) only said, "Fuck you" to the officers once and approached the vehicle but did not insert his head into it.

According to Penal Law 240.20, "A person is guilty of disorderly conduct when, with intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof: 1. He engages in fighting or in violent, tumultuous or threatening behavior; or 2. He makes unreasonable noise; or 3. In a public place, he uses abusive or obscene language, or makes an obscene gesture; or 4. Without lawful authority, he disturbs any lawful assembly or meeting of persons; or 5. He obstructs vehicular or pedestrian traffic; or 6. He congregates with other persons in a public place and refuses to comply with a lawful order of the police to disperse; or 7. He creates a hazardous or physically offensive condition by any act which serves no legitimate purpose." (Board Review 10).

§ 87(2)(g)
[REDACTED]

§ 87(2)(g)
[REDACTED]

§ 87(2)(g)
[REDACTED]

Civilian and Subject Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been party (Board Review 11).
- PO Grullon has been a member-of-service for 14 years and has been a subject in one CCRB complaint and two allegations, none of which were substantiated. § 87(2)(g)
- PO Valentin has been a member-of-service for three years and has been a subject in one CCRB complaint and one allegation, which was not substantiated. § 87(2)(g)

Mediation, Civil, and Criminal Histories

- § 87(2)(b) rejected mediation.
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
- As of June 6, 2019, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards to this complaint (Board Review 07).

Squad No.: _____

Investigator: _____
Signature Print Title & Name Date

Squad Leader: _____
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date